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In re Application of	:	
VITA et al.	:	
Application No.: 10/562,323	:	DECISION ON
PCT No.: PCT/FR04/01698	:	
Int. Filing Date: 01 July 2004	:	RESPONSE
Priority Date: 04 July 2003	:	
Attorney Docket No.: 033339/305722	:	
For: URANIUM-CHELATING PEPTIDES	:	
AND USES THEREOF	:	

This decision is in response to "Response to Notification of Missing Requirements" filed in the United States Patent and Trademark Office on 01 August 2006.

BACKGROUND

On 23 December 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 19 July 2006, the Office mailed Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. On 01 August 2006, applicant filed the instant response.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.)

of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states the following:

If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative (or heirs) must be identified on the declaration (as well as the mailing address and residence information of the legal representative and all other information required under 37 CFR 1.497).

Here, the declaration filed 01 August 2006 includes the required citizenship, residence, and mailing address information for the surviving inventors and the persons identified as heirs signing the declaration on behalf of the deceased inventor. However, the declaration does not set forth the citizenship, former residency and mailing address of the deceased inventor. The declaration is defective because it does not state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative (heirs) to meet the requirements for compliance with 37 CFR 1.497.

In addition, neither the declaration nor any materials submitted therewith state that the three heirs listed in the declaration are the only heirs of the deceased inventor. Applicants must provide a revised declaration that includes all required information, including the citizenship of the deceased inventor. Such declaration must also make clear on its face (or be accompanied by a statement and/or supporting documentation confirming) that the persons executing the declaration on behalf of the deceased inventor are the only heirs of the deceased inventor. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

Also the declaration submitted on 01 August 2006 appears to be in both the French and English languages. As stated in 37 CFR 1.69(b), unless the text of any oath or declaration in a language other than English is in the form provided by the Patent and Trademark Office..., it must be accompanied by an English translation together with a statement that the translation is accurate. See also MPEP 602.06. It is suggested that applicant employ USPTO Form PTO/SB/105 or that the newly executed declaration be accompanied by a statement of counsel that the translation is accurate.

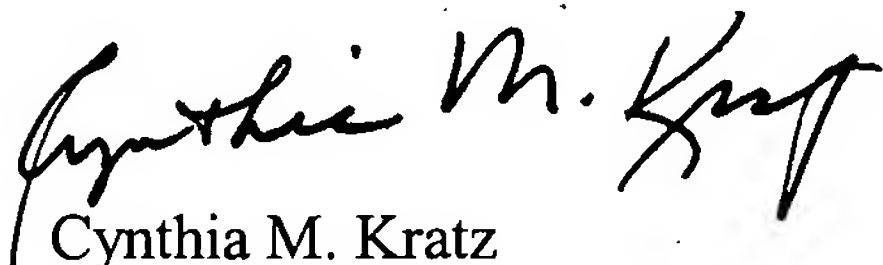
CONCLUSION

For the reasons discussed above, the request for status under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment. Extensions of time are available under 37 CFR 1.136(a).

A proper response must include a revised and re-executed declaration that includes all the information required by 37 CFR 1.497 (including the citizenship of the deceased inventor) as well as a statement and/or supporting documentation confirming that the persons executing the declaration on behalf of the deceased inventor are the only heirs of the deceased inventor.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration


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